
By: **Delegate Rosenberg**

Introduced and read first time: February 3, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Uniform Athlete Agents Act**

3 FOR the purpose of adopting the Maryland Uniform Athlete Agents Act; establishing
4 a method for the service of process for certain individuals under certain
5 circumstances; establishing a method for the issuance of subpoenas under
6 certain circumstances; prohibiting an individual from acting as an athlete agent
7 under certain circumstances; establishing a method of licensure as an athlete
8 agent for certain individuals; specifying information to be included in an
9 application for licensure as an athlete agent; establishing an alternate method
10 of licensure as an athlete agent for certain individuals; providing for the
11 issuance of a license to certain individuals; providing for the denial of a license
12 to certain individuals; establishing a procedure for the denial of a license to
13 certain individuals under certain circumstances; providing for the renewal of a
14 license; establishing an alternate method of renewal for certain individuals
15 under certain circumstances; authorizing the suspension, revocation, or refusal
16 to renew a license under certain circumstances; authorizing the imposition of a
17 certain penalty against certain individuals under certain circumstances;
18 establishing an opportunity for notice and a hearing under certain
19 circumstances; providing for the administration of oaths under certain
20 circumstances; providing for the disposition of fees; requiring certain
21 information to be included in an agency contract; authorizing the voiding of an
22 agency contract under certain circumstances; establishing a time period in
23 which notice of an agency contract must be given to certain individuals under
24 certain circumstances; allowing the cancellation of an agency contract under
25 certain circumstances; requiring that certain records be maintained by certain
26 individuals for a certain amount of time; providing for the inspection of certain
27 records at certain times; prohibiting certain conduct; providing for a criminal
28 penalty; providing for an administrative penalty; establishing a right of action
29 for certain individuals under certain circumstances; providing for the
30 application and construction of this Act; providing for the severability of this Act
31 under certain circumstances; defining certain terms; repealing certain
32 provisions relating to the licensing of sports agents; and generally relating to the
33 Maryland Uniform Athlete Agents Act.

34 BY repealing

1 Article - Business Regulation
2 Section 4-401 through 4-426, inclusive, and the subtitle "Subtitle 4. Sports
3 Agents"
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2002 Supplement)

6 BY adding to
7 Article - Business Regulation
8 Section 4-401 through 4-426, inclusive, to be under the new subtitle "Subtitle 4.
9 Maryland Uniform Athlete Agents Act"
10 Annotated Code of Maryland
11 (1998 Replacement Volume and 2002 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That Section(s) 4-401 through 4-426, inclusive, and the subtitle
14 "Subtitle 4. Sports Agents" of Article - Business Regulation of the Annotated Code of
15 Maryland be repealed.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
17 read as follows:

18 **Article - Business Regulation**

19 **SUBTITLE 4. MARYLAND UNIFORM ATHLETE AGENTS ACT.**

20 4-401.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (B) "AGENCY CONTRACT" MEANS AN AGREEMENT IN WHICH A
24 STUDENT-ATHLETE AUTHORIZES A PERSON TO NEGOTIATE OR SOLICIT ON BEHALF
25 OF THE STUDENT-ATHLETE A PROFESSIONAL-SPORTS-SERVICES CONTRACT OR AN
26 ENDORSEMENT CONTRACT.

27 (C) (1) "ATHLETE AGENT" MEANS AN INDIVIDUAL WHO ENTERS INTO AN
28 AGENCY CONTRACT WITH A STUDENT-ATHLETE OR, DIRECTLY OR INDIRECTLY,
29 RECRUITS OR SOLICITS A STUDENT-ATHLETE TO ENTER INTO AN AGENCY
30 CONTRACT.

31 (2) "ATHLETE AGENT" INCLUDES AN INDIVIDUAL WHO REPRESENTS TO
32 THE PUBLIC THAT THE INDIVIDUAL IS AN ATHLETE AGENT.

33 (3) "ATHLETE AGENT" DOES NOT INCLUDE A SPOUSE, PARENT, SIBLING,
34 GRANDPARENT, OR GUARDIAN OF THE STUDENT-ATHLETE, OR AN INDIVIDUAL
35 ACTING SOLELY ON BEHALF OF A PROFESSIONAL SPORTS TEAM OR PROFESSIONAL
36 SPORTS ORGANIZATION.

1 (D) "ATHLETIC DIRECTOR" MEANS AN INDIVIDUAL RESPONSIBLE FOR
2 ADMINISTERING:

3 (1) THE OVERALL ATHLETIC PROGRAM OF AN EDUCATIONAL
4 INSTITUTION; OR

5 (2) THE ATHLETIC PROGRAM FOR MALES OR THE ATHLETIC PROGRAM
6 FOR FEMALES IF AN EDUCATIONAL INSTITUTION HAS SEPARATELY ADMINISTERED
7 ATHLETIC PROGRAMS FOR MALE STUDENTS AND FEMALE STUDENTS, AS
8 APPROPRIATE.

9 (E) "CONTACT" MEANS A COMMUNICATION, DIRECT OR INDIRECT, BETWEEN
10 AN ATHLETE AGENT AND A STUDENT-ATHLETE TO RECRUIT OR SOLICIT THE
11 STUDENT-ATHLETE TO ENTER INTO AN AGENCY CONTRACT.

12 (F) "ENDORSEMENT CONTRACT" MEANS AN AGREEMENT UNDER WHICH A
13 STUDENT-ATHLETE IS EMPLOYED OR RECEIVES CONSIDERATION TO USE ON
14 BEHALF OF ANOTHER PARTY FOR ANY VALUE THAT THE STUDENT-ATHLETE MAY
15 HAVE DUE TO PUBLICITY, REPUTATION, FOLLOWING, OR FAME OBTAINED DUE TO
16 ATHLETIC ABILITY OR PERFORMANCE.

17 (G) "INTERCOLLEGIATE SPORT" MEANS A SPORT PLAYED AT THE COLLEGIATE
18 LEVEL FOR WHICH ELIGIBILITY REQUIREMENTS OF A STUDENT-ATHLETE ARE
19 ESTABLISHED BY A NATIONAL ASSOCIATION FOR THE PROMOTION OR REGULATION
20 OF COLLEGIATE ATHLETICS.

21 (H) "LICENSE" MEANS A LICENSE ISSUED BY THE SECRETARY TO ACT AS AN
22 ATHLETE AGENT.

23 (I) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST,
24 ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT
25 VENTURE, GOVERNMENTAL AGENCY OR INSTRUMENTALITY, PUBLIC CORPORATION,
26 OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

27 (J) "PROFESSIONAL-SPORTS-SERVICES CONTRACT" MEANS AN AGREEMENT
28 UNDER WHICH AN INDIVIDUAL IS EMPLOYED OR AGREES TO RENDER SERVICES AS A
29 PLAYER ON A PROFESSIONAL SPORTS TEAM WITH A PROFESSIONAL SPORTS
30 ORGANIZATION OR AS A PROFESSIONAL ATHLETE.

31 (K) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE
32 MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS
33 RETRIEVABLE IN PERCEIVABLE FORM.

34 (L) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
35 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY
36 OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

37 (M) (1) "STUDENT-ATHLETE" MEANS AN INDIVIDUAL WHO ENGAGES IN, IS
38 ELIGIBLE TO ENGAGE IN, OR MAY BE ELIGIBLE IN THE FUTURE TO ENGAGE IN, ANY
39 INTERCOLLEGIATE SPORT.

1 (2) "STUDENT-ATHLETE" INCLUDES AN INDIVIDUAL WHO IS OR WAS A
2 MEMBER OF A SPORTS TEAM OF A HIGH SCHOOL.

3 (3) "STUDENT-ATHLETE" DOES NOT INCLUDE AN INDIVIDUAL
4 PERMANENTLY INELIGIBLE TO PARTICIPATE IN A PARTICULAR SPORT.

5 4-402.

6 (A) BY ACTING AS AN ATHLETE AGENT IN THE STATE, A NONRESIDENT
7 INDIVIDUAL APPOINTS THE SECRETARY AS THE INDIVIDUAL'S AGENT FOR SERVICE
8 OF PROCESS IN ANY CIVIL ACTION IN THE STATE RELATED TO THE INDIVIDUAL'S
9 ACTING AS AN ATHLETE AGENT IN THE STATE.

10 (B) THE SECRETARY MAY ISSUE SUBPOENAS FOR ANY MATERIAL THAT IS
11 RELEVANT TO THE ADMINISTRATION OF THIS SUBTITLE.

12 4-403.

13 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION,
14 AN INDIVIDUAL MAY NOT ACT AS AN ATHLETE AGENT IN THE STATE WITHOUT
15 HOLDING A LICENSE UNDER § 4-405 OF THIS SUBTITLE.

16 (B) BEFORE BEING ISSUED A LICENSE, AN INDIVIDUAL MAY ACT AS AN
17 ATHLETE AGENT IN THE STATE FOR ALL PURPOSES EXCEPT SIGNING AN AGENCY
18 CONTRACT IF:

19 (1) A STUDENT-ATHLETE OR ANOTHER PERSON ACTING ON BEHALF OF
20 THE STUDENT-ATHLETE INITIATES COMMUNICATION WITH THE INDIVIDUAL; AND

21 (2) WITHIN 7 DAYS AFTER AN INITIAL ACT AS AN ATHLETE AGENT, THE
22 INDIVIDUAL SUBMITS AN APPLICATION FOR A LICENSE AS AN ATHLETE AGENT IN
23 THE STATE.

24 (C) AN AGENCY CONTRACT RESULTING FROM CONDUCT IN VIOLATION OF
25 THIS SECTION IS VOID AND THE ATHLETE AGENT SHALL RETURN ANY
26 CONSIDERATION RECEIVED UNDER THE CONTRACT.

27 4-404.

28 (A) AN APPLICANT FOR A LICENSE SHALL:

29 (1) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM THE
30 SECRETARY REQUIRES; AND

31 (2) PAY TO THE SECRETARY A \$25 APPLICATION FEE.

32 (B) IN ADDITION TO ANY OTHER INFORMATION REQUIRED ON THE
33 APPLICATION, THE APPLICATION MUST BE IN THE NAME OF AN INDIVIDUAL AND,
34 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS SECTION, SIGNED OR
35 OTHERWISE AUTHENTICATED BY THE APPLICANT UNDER PENALTY OF PERJURY
36 AND STATE OR CONTAIN:

- 1 (1) THE NAME OF THE APPLICANT AND THE ADDRESS OF THE
2 APPLICANT'S PRINCIPAL PLACE OF BUSINESS;
- 3 (2) THE NAME OF THE APPLICANT'S BUSINESS OR EMPLOYER, IF
4 APPLICABLE;
- 5 (3) ANY BUSINESS OR OCCUPATION ENGAGED IN BY THE APPLICANT
6 FOR 5 YEARS BEFORE THE DATE OF THE APPLICATION;
- 7 (4) A DESCRIPTION OF THE APPLICANT'S:
- 8 (I) FORMAL TRAINING AS AN ATHLETE AGENT;
- 9 (II) PRACTICAL EXPERIENCE AS AN ATHLETE AGENT; AND
- 10 (III) EDUCATIONAL BACKGROUND RELATING TO THE APPLICANT'S
11 ACTIVITIES AS AN ATHLETE AGENT;
- 12 (5) THE NAMES AND ADDRESSES OF THREE INDIVIDUALS NOT RELATED
13 TO THE APPLICANT WHO ARE WILLING TO SERVE AS REFERENCES;
- 14 (6) THE NAME, SPORT, AND LAST KNOWN TEAM FOR EACH INDIVIDUAL
15 FOR WHOM THE APPLICANT ACTED AS AN ATHLETE AGENT DURING THE 5 YEARS
16 BEFORE THE DATE OF THE APPLICATION;
- 17 (7) THE NAMES AND ADDRESSES OF ALL PERSONS WHO ARE:
- 18 (I) WITH RESPECT TO THE ATHLETE AGENT'S BUSINESS IF IT IS
19 NOT A CORPORATION, THE PARTNERS, MEMBERS, OFFICERS, MANAGERS,
20 ASSOCIATES, OR PROFIT SHARERS OF THE BUSINESS; AND
- 21 (II) WITH RESPECT TO A CORPORATION EMPLOYING THE ATHLETE
22 AGENT, THE OFFICER'S DIRECTORS, AND ANY SHAREHOLDER OF THE CORPORATION
23 HAVING AN INTEREST OF 5% OR GREATER;
- 24 (8) WHETHER THE APPLICANT OR ANY PERSON NAMED IN ACCORDANCE
25 WITH ITEM (7) OF THIS SUBSECTION HAS BEEN CONVICTED OF A CRIME THAT, IF
26 COMMITTED IN THE STATE, WOULD BE A CRIME INVOLVING MORAL TURPITUDE OR A
27 FELONY, AND IDENTIFY THE CRIME;
- 28 (9) WHETHER THERE HAS BEEN ANY ADMINISTRATIVE OR JUDICIAL
29 DETERMINATION THAT THE APPLICANT OR ANY PERSON NAMED IN ACCORDANCE
30 WITH ITEM (7) OF THIS SUBSECTION HAS MADE A FALSE, MISLEADING, DECEPTIVE,
31 OR FRAUDULENT REPRESENTATION;
- 32 (10) ANY INSTANCE IN WHICH THE CONDUCT OF THE APPLICANT OR ANY
33 PERSON NAMED IN ACCORDANCE WITH ITEM (7) OF THIS SUBSECTION RESULTED IN
34 THE IMPOSITION OF A SANCTION, SUSPENSION, OR DECLARATION OF INELIGIBILITY
35 TO PARTICIPATE IN AN INTERSCHOLASTIC OR INTERCOLLEGIATE ATHLETIC EVENT
36 ON A STUDENT-ATHLETE OR EDUCATIONAL INSTITUTION;

1 (11) ANY SANCTION, SUSPENSION, OR DISCIPLINARY ACTION TAKEN
2 AGAINST THE APPLICANT OR ANY PERSON NAMED IN ACCORDANCE WITH ITEM (7) OF
3 THIS SUBSECTION ARISING OUT OF OCCUPATIONAL OR PROFESSIONAL
4 MISCONDUCT; AND

5 (12) WHETHER THERE HAS BEEN ANY DENIAL OF AN APPLICATION FOR,
6 SUSPENSION OR REVOCATION OF, OR REFUSAL TO RENEW THE REGISTRATION OR
7 LICENSURE OF THE APPLICANT OR ANY PERSON NAMED IN ACCORDANCE WITH ITEM
8 (7) OF THIS SUBSECTION AS AN ATHLETE AGENT IN ANY STATE.

9 (C) NOTWITHSTANDING SUBSECTION (B)(7) OF THIS SECTION, AN APPLICANT
10 WHO IS A MEMBER OF THE BAR OF THE COURT OF APPEALS OF MARYLAND NEED NOT
11 PROVIDE THE NAME AND ADDRESS OF A PERSON WHO IS A PARTNER, MEMBER,
12 ASSOCIATE, OR PROFIT SHARER IN A LAW FIRM OR PROFESSIONAL CORPORATION.

13 (D) (1) AN INDIVIDUAL WHO HAS SUBMITTED AN APPLICATION FOR, AND
14 HOLDS A CERTIFICATE OF REGISTRATION OR LICENSURE AS AN ATHLETE AGENT IN
15 ANOTHER STATE, MAY SUBMIT A COPY OF THE APPLICATION AND CERTIFICATE IN
16 LIEU OF SUBMITTING AN APPLICATION IN THE FORM REQUIRED UNDER
17 SUBSECTION (B) OF THIS SECTION.

18 (2) THE SECRETARY SHALL ACCEPT THE APPLICATION AND THE
19 CERTIFICATE FROM THE OTHER STATE AS AN APPLICATION FOR A LICENSE IN THE
20 STATE IF THE APPLICATION TO THE OTHER STATE:

21 (I) WAS SUBMITTED IN THE OTHER STATE 6 MONTHS BEFORE THE
22 SUBMISSION OF THE APPLICATION IN THE STATE AND THE APPLICANT CERTIFIES
23 THAT THE INFORMATION CONTAINED IN THE APPLICATION IS CURRENT;

24 (II) CONTAINS INFORMATION SUBSTANTIALLY SIMILAR TO OR
25 MORE COMPREHENSIVE THAN THAT REQUIRED IN AN APPLICATION SUBMITTED IN
26 THE STATE; AND

27 (III) WAS SIGNED BY THE APPLICANT UNDER PENALTY OF PERJURY.
28 4-405.

29 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION,
30 THE SECRETARY SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO:

31 (1) COMPLIES WITH § 4-404(A) OF THIS SUBTITLE OR WHOSE
32 APPLICATION HAS BEEN ACCEPTED UNDER § 4-404(D) OF THIS SUBTITLE; AND

33 (2) PAYS TO THE SECRETARY A \$1,000 LICENSE FEE.

34 (B) (1) SUBJECT TO THE HEARING PROVISIONS OF § 4-407 OF THIS
35 SUBTITLE, THE SECRETARY MAY DENY A LICENSE IF THE SECRETARY DETERMINES
36 THAT THE APPLICANT HAS ENGAGED IN CONDUCT THAT HAS A SIGNIFICANT
37 ADVERSE EFFECT ON THE APPLICANT'S FITNESS TO ACT AS AN ATHLETE AGENT.

1 (2) IN MAKING THE DETERMINATION UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION, THE SECRETARY MAY CONSIDER WHETHER THE APPLICANT HAS:

3 (I) BEEN CONVICTED OF A CRIME THAT, IF COMMITTED IN THE
4 STATE, WOULD BE A CRIME INVOLVING MORAL TURPITUDE OR A FELONY;

5 (II) MADE A MATERIALLY FALSE, MISLEADING, DECEPTIVE, OR
6 FRAUDULENT REPRESENTATION IN THE APPLICATION OR AS AN ATHLETE AGENT;

7 (III) ENGAGED IN CONDUCT THAT WOULD DISQUALIFY THE
8 APPLICANT FROM SERVING IN A FIDUCIARY CAPACITY;

9 (IV) ENGAGED IN CONDUCT PROHIBITED BY § 4-413 OF THIS
10 SUBTITLE;

11 (V) HAD A REGISTRATION OR LICENSURE AS AN ATHLETE AGENT
12 SUSPENDED, REVOKED, OR DENIED OR BEEN REFUSED RENEWAL OF REGISTRATION
13 OR LICENSURE AS AN ATHLETE AGENT IN ANY STATE;

14 (VI) ENGAGED IN CONDUCT THE CONSEQUENCE OF WHICH WAS
15 THAT A SANCTION, SUSPENSION, OR DECLARATION OF INELIGIBILITY TO
16 PARTICIPATE IN AN INTERSCHOLASTIC OR INTERCOLLEGIATE ATHLETIC EVENT WAS
17 IMPOSED ON A STUDENT-ATHLETE OR EDUCATIONAL INSTITUTION;

18 (VII) ENGAGED IN CONDUCT THAT SIGNIFICANTLY ADVERSELY
19 REFLECTS ON THE APPLICANT'S CREDIBILITY, HONESTY, OR INTEGRITY; OR

20 (VIII) FAILED TO DEMONSTRATE FINANCIAL STABILITY.

21 (C) IN MAKING A DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION,
22 THE SECRETARY SHALL CONSIDER:

23 (1) HOW RECENTLY THE CONDUCT OCCURRED;

24 (2) THE NATURE OF THE CONDUCT AND THE CONTEXT IN WHICH IT
25 OCCURRED; AND

26 (3) ANY OTHER RELEVANT CONDUCT OF THE APPLICANT.

27 (D) (1) AN ATHLETE AGENT MAY APPLY TO RENEW A LICENSE BY:

28 (I) SUBMITTING AN APPLICATION FOR RENEWAL IN A FORM
29 REQUIRED BY THE SECRETARY; AND

30 (II) PAYING TO THE SECRETARY A \$1,000 RENEWAL FEE.

31 (2) THE APPLICATION FOR RENEWAL MUST BE SIGNED BY THE
32 APPLICANT UNDER PENALTY OF PERJURY AND MUST CONTAIN CURRENT
33 INFORMATION ON ALL MATTERS REQUIRED IN AN ORIGINAL APPLICATION FOR A
34 LICENSE.

1 (E) (1) AN INDIVIDUAL WHO HAS SUBMITTED AN APPLICATION FOR
2 RENEWAL OF REGISTRATION OR LICENSURE IN ANOTHER STATE, IN LIEU OF
3 SUBMITTING AN APPLICATION FOR RENEWAL IN THE FORM REQUIRED UNDER
4 SUBSECTION (D) OF THIS SECTION, MAY FILE A COPY OF THE APPLICATION FOR
5 RENEWAL AND A VALID CERTIFICATE OF REGISTRATION OR LICENSURE FROM THE
6 OTHER STATE.

7 (2) THE SECRETARY SHALL ACCEPT THE APPLICATION FOR RENEWAL
8 FROM THE OTHER STATE AS AN APPLICATION FOR RENEWAL IN THE STATE IF THE
9 APPLICATION FOR THE OTHER STATE:

10 (I) WAS SUBMITTED IN THE OTHER STATE WITHIN 6 MONTHS
11 BEFORE THE FILING IN THE STATE AND THE APPLICANT CERTIFIES THE
12 INFORMATION CONTAINED IN THE APPLICATION FOR RENEWAL IS CURRENT;

13 (II) CONTAINS INFORMATION SUBSTANTIALLY SIMILAR TO OR
14 MORE COMPREHENSIVE THAN THAT REQUIRED IN AN APPLICATION FOR RENEWAL
15 SUBMITTED IN THE STATE; AND

16 (III) WAS SIGNED BY THE APPLICANT UNDER PENALTY OF PERJURY.

17 (F) A LICENSE OR A RENEWAL IS VALID FOR 2 YEARS.

18 4-406.

19 (A) SUBJECT TO THE HEARING PROVISIONS OF § 4-407 OF THIS SUBTITLE, THE
20 SECRETARY MAY REPRIMAND A LICENSEE, SUSPEND, OR REVOKE A LICENSE FOR
21 CONDUCT THAT WOULD HAVE JUSTIFIED DENIAL OF A LICENSE UNDER § 4-405(B) OF
22 THIS SUBTITLE.

23 (B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE LICENSEE OR
24 SUSPENDING OR REVOKING A LICENSE UNDER SUBSECTION (A) OF THIS SECTION,
25 THE SECRETARY MAY ASSESS A CIVIL PENALTY UNDER § 4-416 OF THIS SUBTITLE.

26 (2) THE SECRETARY SHALL PAY ANY PENALTY COLLECTED UNDER THIS
27 SUBSECTION INTO THE GENERAL FUND OF THE STATE.

28 4-407.

29 (A) EXCEPT AS PROVIDED IN § 10-226 OF THE STATE GOVERNMENT ARTICLE,
30 BEFORE THE SECRETARY TAKES ANY FINAL ACTION UNDER § 4-405(B), § 4-406, § 4-416
31 OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE PERSON AGAINST WHOM THE
32 ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE
33 SECRETARY.

34 (B) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN
35 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

36 (C) THE SECRETARY MAY ADMINISTER OATHS IN A PROCEEDING UNDER THIS
37 SECTION.

1 (D) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS
2 CONTEMPLATED DOES NOT APPEAR, THE SECRETARY MAY HEAR AND DETERMINE
3 THE MATTER.

4 4-408.

5 THE SECRETARY SHALL PAY ALL MONEYS COLLECTED UNDER THIS SUBTITLE
6 INTO THE GENERAL FUND OF THE STATE.

7 4-409.

8 (A) AN AGENCY CONTRACT MUST BE IN A RECORD SIGNED OR OTHERWISE
9 AUTHENTICATED BY THE PARTIES.

10 (B) AN AGENCY CONTRACT MUST STATE OR CONTAIN:

11 (1) THE AMOUNT AND METHOD OF CALCULATING THE CONSIDERATION
12 TO BE PAID BY THE STUDENT-ATHLETE FOR SERVICES TO BE PROVIDED BY THE
13 ATHLETE AGENT UNDER THE CONTRACT AND ANY OTHER CONSIDERATION THE
14 ATHLETE AGENT HAS RECEIVED OR WILL RECEIVE FROM ANY OTHER SOURCE FOR
15 ENTERING INTO THE CONTRACT OR FOR PROVIDING THE SERVICES;

16 (2) THE NAME OF ANY PERSON NOT LISTED IN THE APPLICATION FOR A
17 LICENSE OR RENEWAL OF A LICENSE WHO WILL BE COMPENSATED BECAUSE THE
18 STUDENT-ATHLETE SIGNED THE AGENCY CONTRACT;

19 (3) A DESCRIPTION OF ANY EXPENSES THAT THE STUDENT-ATHLETE
20 AGREES TO REIMBURSE;

21 (4) A DESCRIPTION OF THE SERVICES TO BE PROVIDED TO THE
22 STUDENT-ATHLETE;

23 (5) THE DURATION OF THE CONTRACT; AND

24 (6) THE DATE OF EXECUTION.

25 (C) AN AGENCY CONTRACT MUST CONTAIN, IN CLOSE PROXIMITY TO THE
26 SIGNATURE OF THE STUDENT-ATHLETE, A CONSPICUOUS NOTICE IN BOLDFACE
27 TYPE IN CAPITAL LETTERS STATING:

28 "WARNING TO STUDENT-ATHLETE

29 IF YOU SIGN THIS CONTRACT:

30 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE
31 IN YOUR SPORT;

32 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
33 ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST
34 NOTIFY YOUR ATHLETIC DIRECTOR; AND

1 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.
2 CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."

3 (D) (1) AN AGENCY CONTRACT THAT DOES NOT CONFORM TO THIS SECTION
4 IS VOIDABLE BY THE STUDENT-ATHLETE.

5 (2) IF A STUDENT-ATHLETE VOIDS AN AGENCY CONTRACT UNDER THIS
6 SECTION, THE STUDENT-ATHLETE IS NOT REQUIRED TO PAY ANY CONSIDERATION
7 UNDER THE CONTRACT OR TO RETURN ANY CONSIDERATION RECEIVED FROM THE
8 ATHLETE AGENT TO INDUCE THE STUDENT-ATHLETE TO ENTER INTO THE
9 CONTRACT.

10 (E) THE ATHLETE AGENT SHALL GIVE A RECORD OF THE SIGNED OR
11 OTHERWISE AUTHENTICATED AGENCY CONTRACT TO THE STUDENT-ATHLETE AT
12 THE TIME OF EXECUTION.

13 4-410.

14 (A) WITHIN 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT OR
15 BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH THE
16 STUDENT-ATHLETE MAY PARTICIPATE, WHICHEVER OCCURS FIRST, THE ATHLETE
17 AGENT SHALL GIVE NOTICE IN A RECORD OF THE EXISTENCE OF THE CONTRACT TO
18 THE ATHLETIC DIRECTOR OF THE EDUCATIONAL INSTITUTION AT WHICH THE
19 STUDENT-ATHLETE IS ENROLLED OR THE ATHLETE AGENT HAS REASONABLE
20 GROUNDS TO BELIEVE THE STUDENT-ATHLETE INTENDS TO ENROLL.

21 (B) WITHIN 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT OR
22 BEFORE THE NEXT ATHLETIC EVENT IN WHICH THE STUDENT-ATHLETE MAY
23 PARTICIPATE, WHICHEVER OCCURS FIRST, THE STUDENT-ATHLETE SHALL INFORM
24 THE ATHLETIC DIRECTOR OF THE EDUCATIONAL INSTITUTION AT WHICH THE
25 STUDENT-ATHLETE IS ENROLLED OR IN WHICH THE STUDENT-ATHLETE INTENDS
26 TO ENROLL THAT THE STUDENT-ATHLETE HAS ENTERED INTO AN AGENCY
27 CONTRACT.

28 4-411.

29 (A) A STUDENT-ATHLETE MAY CANCEL AN AGENCY CONTRACT BY GIVING
30 NOTICE OF THE CANCELLATION TO THE ATHLETE AGENT IN A RECORD WITHIN 14
31 DAYS AFTER THE CONTRACT IS SIGNED.

32 (B) A STUDENT-ATHLETE MAY NOT WAIVE THE RIGHT TO CANCEL AN
33 AGENCY CONTRACT.

34 (C) IF A STUDENT-ATHLETE CANCELS AN AGENCY CONTRACT, THE
35 STUDENT-ATHLETE IS NOT REQUIRED TO PAY ANY CONSIDERATION UNDER THE
36 CONTRACT OR TO RETURN ANY CONSIDERATION RECEIVED FROM THE ATHLETE
37 AGENT TO INDUCE THE STUDENT-ATHLETE TO ENTER INTO THE CONTRACT.

1 4-412.

2 (A) AN ATHLETE AGENT SHALL RETAIN THE FOLLOWING RECORDS FOR A
3 PERIOD OF 5 YEARS:

4 (1) THE NAME OF EACH INDIVIDUAL REPRESENTED BY THE ATHLETE
5 AGENT;

6 (2) THE ADDRESS OF EACH INDIVIDUAL REPRESENTED BY THE
7 ATHLETE AGENT;

8 (3) ANY AGENCY CONTRACT ENTERED INTO BY THE ATHLETE AGENT;
9 AND

10 (4) ANY DIRECT COSTS INCURRED BY THE ATHLETE AGENT IN THE
11 RECRUITMENT OR SOLICITATION OF A STUDENT-ATHLETE TO ENTER INTO AN
12 AGENCY CONTRACT.

13 (B) RECORDS REQUIRED TO BE RETAINED BY SUBSECTION (A) OF THIS
14 SECTION ARE OPEN TO INSPECTION BY THE SECRETARY DURING NORMAL BUSINESS
15 HOURS.

16 4-413.

17 (A) AN ATHLETE AGENT, WITH THE INTENT TO INDUCE A STUDENT-ATHLETE
18 TO ENTER INTO AN AGENCY CONTRACT, MAY NOT:

19 (1) GIVE ANY MATERIALLY FALSE OR MISLEADING INFORMATION OR
20 MAKE A MATERIALLY FALSE PROMISE OR REPRESENTATION;

21 (2) FURNISH ANYTHING OF VALUE TO A STUDENT-ATHLETE BEFORE
22 THE STUDENT-ATHLETE ENTERS INTO THE AGENCY CONTRACT; OR

23 (3) FURNISH ANYTHING OF VALUE TO ANY INDIVIDUAL OTHER THAN
24 THE STUDENT-ATHLETE OR ANOTHER LICENSED ATHLETE AGENT.

25 (B) AN ATHLETE AGENT MAY NOT INTENTIONALLY:

26 (1) INITIATE CONTACT WITH A STUDENT-ATHLETE UNLESS LICENSED
27 UNDER THIS SUBTITLE;

28 (2) REFUSE OR FAIL TO RETAIN OR PERMIT INSPECTION OF THE
29 RECORDS REQUIRED TO BE RETAINED BY § 4-412 OF THIS SUBTITLE;

30 (3) FAIL TO OBTAIN A LICENSE WHEN REQUIRED BY § 4-403 OF THIS
31 SUBTITLE;

32 (4) PROVIDE MATERIALLY FALSE OR MISLEADING INFORMATION IN AN
33 APPLICATION FOR A LICENSE OR RENEWAL OF A LICENSE;

34 (5) PREDATE OR POSTDATE AN AGENCY CONTRACT; OR

1 (6) FAIL TO NOTIFY A STUDENT-ATHLETE BEFORE THE
2 STUDENT-ATHLETE SIGNS OR OTHERWISE AUTHENTICATES AN AGENCY CONTRACT
3 FOR A PARTICULAR SPORT THAT THE SIGNING OR AUTHENTICATION MAY MAKE THE
4 STUDENT-ATHLETE INELIGIBLE TO PARTICIPATE AS A STUDENT-ATHLETE IN THAT
5 SPORT.

6 (C) AN ATHLETE AGENT MAY NOT SPLIT A FEE WITH OR RECEIVE
7 COMPENSATION FROM:

8 (1) A PROFESSIONAL SPORTS LEAGUE;

9 (2) A PROFESSIONAL SPORTS FRANCHISE;

10 (3) A REPRESENTATIVE OR EMPLOYEE OF A PROFESSIONAL SPORTS
11 LEAGUE OR FRANCHISE; OR

12 (4) AN EMPLOYEE OF AN EDUCATIONAL INSTITUTION IN THE STATE.

13 4-414.

14 AN ATHLETE AGENT WHO VIOLATES § 4-413 OF THIS SUBTITLE IS GUILTY OF A
15 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000
16 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

17 4-415.

18 (A) (1) AN EDUCATIONAL INSTITUTION HAS A RIGHT OF ACTION AGAINST
19 AN ATHLETE AGENT OR A FORMER STUDENT-ATHLETE FOR DAMAGES CAUSED BY
20 VIOLATION OF THIS SUBTITLE.

21 (2) IN AN ACTION UNDER THIS SECTION, THE COURT MAY AWARD TO
22 THE PREVAILING PARTY COSTS AND REASONABLE ATTORNEY'S FEES.

23 (B) DAMAGES TO AN EDUCATIONAL INSTITUTION UNDER SUBSECTION (A) OF
24 THIS SECTION INCLUDE LOSSES AND EXPENSES INCURRED BECAUSE, AS A RESULT
25 OF THE CONDUCT OF AN ATHLETE AGENT OR FORMER STUDENT-ATHLETE, THE
26 EDUCATIONAL INSTITUTION WAS INJURED BY A VIOLATION OF THIS SUBTITLE OR
27 WAS PENALIZED, DISQUALIFIED, OR SUSPENDED FROM PARTICIPATION IN
28 ATHLETICS BY A NATIONAL ASSOCIATION FOR THE PROMOTION AND REGULATION
29 OF ATHLETICS, BY AN ATHLETIC CONFERENCE, OR BY REASONABLE SELF-IMPOSED
30 DISCIPLINARY ACTION TAKEN TO MITIGATE SANCTIONS LIKELY TO BE IMPOSED BY
31 SUCH AN ORGANIZATION.

32 (C) A RIGHT OF ACTION UNDER THIS SECTION DOES NOT ACCRUE UNTIL THE
33 EDUCATIONAL INSTITUTION DISCOVERS, OR BY THE EXERCISE OF REASONABLE
34 DILIGENCE WOULD HAVE DISCOVERED, THE VIOLATION BY THE ATHLETE AGENT OR
35 FORMER STUDENT-ATHLETE.

36 (D) ANY LIABILITY OF THE ATHLETE AGENT OR THE FORMER
37 STUDENT-ATHLETE UNDER THIS SECTION IS SEVERAL AND NOT JOINT.

1 (E) THIS SUBTITLE DOES NOT RESTRICT RIGHTS, REMEDIES, OR DEFENSES OF
2 ANY PERSON UNDER LAW OR EQUITY.

3 4-416.

4 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE AND SUBJECT TO
5 THE PROVISIONS OF § 4-407 OF THIS SUBTITLE, THE SECRETARY MAY ASSESS A CIVIL
6 PENALTY AGAINST A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE NOT
7 TO EXCEED \$25,000.

8 (B) (1) TO DETERMINE THE AMOUNT OF THE PENALTY, THE SECRETARY
9 SHALL CONSIDER:

- 10 (I) THE SERIOUSNESS OF THE VIOLATION;
- 11 (II) THE HARM CAUSED BY THE VIOLATION;
- 12 (III) THE GOOD FAITH OF THE VIOLATOR;
- 13 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
- 14 AND
- 15 (V) ANY OTHER RELEVANT FACTORS.

16 (C) THE SECRETARY SHALL PAY ANY PENALTY COLLECTED UNDER THIS
17 SECTION INTO THE GENERAL FUND OF THE STATE.

18 4-417.

19 IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE
20 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS
21 SUBJECT MATTER AMONG STATES THAT ENACT IT.

22 4-418.

23 THE PROVISIONS OF THIS SUBTITLE GOVERNING THE LEGAL EFFECT,
24 VALIDITY, OR ENFORCEABILITY OF ELECTRONIC RECORDS OR SIGNATURES, AND OF
25 CONTRACTS FORMED OR PERFORMED WITH THE USE OF SUCH RECORDS OR
26 SIGNATURES CONFORM TO THE REQUIREMENTS OF SECTION 102 OF THE
27 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, PUB. L. NO.
28 106-229, 114 STAT. 464 (2000), AND SUPERSEDE, MODIFY, AND LIMIT THE ELECTRONIC
29 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

30 4-419.

31 IF ANY PROVISION OF THIS SUBTITLE OR ITS APPLICATION TO ANY PERSON OR
32 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER
33 PROVISIONS OR APPLICATIONS OF THIS SUBTITLE WHICH CAN BE GIVEN EFFECT
34 WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
35 PROVISIONS OF THIS SUBTITLE ARE SEVERABLE.

1 4-420.

2 THIS SUBTITLE IS THE MARYLAND UNIFORM ATHLETE AGENTS ACT.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2003.